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S. W. 674; *Jones v. Garage Equipment Co.*, *supra*. Inasmuch as a court is vested with discretionary power over its judgments solely to promote justice by permitting the correction of omission, inadvertence or mistake, the principal case is correct in holding the action of the trial court to be an abuse of its discretion.

MASTER AND SERVANT—RECOVERY BY FATHER FOR DEATH OF CHILD—ESTOPPEL TO RELY ON CHILD LABOR LAW.—The plaintiff's child was drowned in an open pond in the defendant's mill-yard where he was employed to carry water to other workmen in the defendant's employ. The plaintiff had himself procured the position for the boy by representing him to be over fifteen years of age when in fact the child was under fourteen. The Child Labor Law of the state (La. Act No. 301, 1908) made criminal the employment of a child under fourteen years of age. *Held*, that the plaintiff was estopped to set up the violation of the statute. *Majors v. Allen Mfg. Co.* (La. 1919) 80 So. 549.

The common law afforded no civil remedy for an injury resulting in the death of a human being; 1 Shear. & Redf., *Negligence* (6th ed.) § 124; *Jackson v. Pittsburgh, C., C. & St. L. Ry. Co.* (1895) 140 Ind. 241, 39 N. E. 663; see *Insurance Co. v. Brame* (1877) 95 U. S. 754; and where such injury caused loss of services, recovery therefor was limited to the damages sustained between the time of the tortious act and the time of death. 1 Cooley, *Torts* (3rd ed.) *307; *Sherlag v. Kelley* (1908) 200 Mass. 232, 86 N. E. 293; see *Brink v. Wabash R. R. Co.* (1901) 160 Mo. 87, 60 S. W. 1058. The rule, however, has been abrogated in most jurisdictions by statutes either providing that any action which the deceased himself had at the time of his death should survive to specified beneficiaries, or creating an action for death caused by a tortious act in favor of designated relatives of the deceased. 3 Shear. & Redf., *op. cit.*, Appendix I; *cf.* La. Rev. Civ. Code (1909) § 2315. Under the former class of statutes, the plaintiff sues in the right of the deceased and the *onus* is on him to prove that a cause of action accrued to the deceased during his lifetime; *i. e.*, that death was not instantaneous. *Moran v. Hollings* (1878) 125 Mass. 93; *Sweetland v. Chicago, etc., Ry. Co.* (1898) 117 Mich. 329, 75 N. W. 1066. Thus, if the plaintiff is here suing in the right of the deceased, he cannot succeed, because death was probably instantaneous. But if the plaintiff is suing in his own right, either for loss of services or for death by wrongful act, he is estopped, for it is a fair inference that the child would not have been employed at all had the defendant not been deceived as to his age, and the plaintiff should not be permitted to enrich himself by his misrepresentation, which, in the principal case, constituted a crime. La. Act No. 301, 1908, § 7. Nor does the prohibition of the Child Labor Law in any way aid the plaintiff since it affords no civil remedy to either parent or child. *Alexander v. Standard Oil Co. of La.* (1916) 140 La. 54, 72 So. 806. Hence, it is submitted that the court in the instant case has reached the correct result in denying relief to the plaintiff.